

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**TERRY HARRIS, DOROTHY
WATFORD, ET AL.,**

Plaintiffs,

VS.

JOSEPH BORG,

Defendants.

CASE NO.: 2:05CV1083-MEF

**MOTION TO STRIKE
AND, IN THE ALTERNATIVE,
MOTION REQUESTING THE OPPORTUNITY TO RESPOND
TO PLAINTIFFS' SUBMISSION
IN SUPPORT OF CLASS CERTIFICATION**

On September 6, 2006, when the Plaintiffs had filed nothing in response to the Court's order by the time allowed, Defendant filed a notification to the Court of the Plaintiffs' non-responsiveness, asserting that Defendant had nothing on which to respond.

On September 22, 2006, twelve days after the motion was submitted to the Court, the Plaintiffs filed an Affidavit in Support of Class Certification. This submission is comprised of a few conclusory allegations and a list of names. No explanation or excuse was offered for the Plaintiffs' failure to comply with the Court's order and it was not accompanied by a brief.

WHEREFORE, the Defendant asks the Court to strike the Plaintiffs' submission as untimely and not in compliance with the Court order.

2. The Plaintiffs' submission is inadequate as a matter of law.

The Plaintiffs' untimely filing provides no basis for the certification of a class action. It amounts to no more than unsubstantiated conclusions and a list of names. If given the opportunity to respond, Defendant will show that the Plaintiffs' claims bear little or no relationship to the alleged claims of their purported class members and that the Plaintiffs are entirely inappropriate class representatives for the putative class. Defendant will show that Plaintiff Harris, apparently with plaintiff Watford's assistance, was the creator and operator of several companies, including Wealth Builders International, the company referred to in Plaintiffs' submission, that illegally pooled investors' funds in violation of Alabama securities laws. Defendant will show that Plaintiff Harris has plead guilty to violations of Alabama law in connection with the very investors he would now represent as their class representative.

WHEREFORE, the Defendant asks the Court to give him the opportunity to respond to Plaintiffs' submission unless the Court intends to strike the submission and/or grant the Defendant's motion to dismiss class claims.

s/Bruce J. Downey, III
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ASB-9205-W86B
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CERTIFICATE OF SERVICE

I hereby certify that on this the 28th day of September, 2006, I have electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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s/Bruce J. Downey, III
OF COUNSEL